

SENATE BILL No. 116

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-50-2-14.

Synopsis: Sex offender penalties. Requires the jury to determine whether a person is a repeat sexual offender if the person was tried by a jury. Specifies that the court must determine whether a person is a repeat sexual offender if the person received a bench trial or pleaded guilty.

Effective: July 1, 2005.

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January 4, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 116

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-50-2-14 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The state may
3 seek to have a person sentenced as a repeat sexual offender for a sex
4 offense under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3 by
5 alleging, on a page separate from the rest of the charging instrument,
6 that the person has accumulated one (1) prior unrelated felony
7 conviction for a sex offense under IC 35-42-4-1 through IC 35-42-4-9
8 or IC 35-46-1-3.

9 (b) After a person has been convicted and sentenced for a felony
10 committed after sentencing for a prior unrelated felony conviction
11 under IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3, the person
12 has accumulated one (1) prior unrelated felony conviction. However,
13 a conviction does not count for purposes of this subsection, if:

14 (1) it has been set aside; or

15 (2) it is one for which the person has been pardoned.

16 ~~(c) The court alone shall conduct the sentencing hearing under~~
17 ~~IC 35-38-1-3.~~

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1 (c) If the person was convicted of the offense in a jury trial, the
2 jury shall reconvene to hear evidence in the repeat sexual offender
3 hearing. If the trial was to the court or the judgment was entered
4 on a guilty plea, the court alone shall hear evidence in the repeat
5 sexual offender hearing.

6 (d) A person is a repeat sexual offender if the jury (if the hearing
7 is by the jury) or the court (if the hearing is by the court) finds that
8 the state has proved beyond a reasonable doubt that the person had
9 accumulated one (1) prior unrelated felony conviction under
10 IC 35-42-4-1 through IC 35-42-4-9 or IC 35-46-1-3.

11 (e) The court may sentence a person found to be a repeat sexual
12 offender to an additional fixed term that is the presumptive sentence for
13 the underlying offense. However, the additional sentence may not
14 exceed ten (10) years.

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